

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

HEADWATER RESEARCH LLC,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD. and
SAMSUNG ELECTRONICS AMERICA, INC.,

Defendants.

Case No. 2:22-cv-00422-JRG-RSP

JURY TRIAL DEMANDED

**PLAINTIFF HEADWATER RESEARCH LLC'S
OPPOSITION TO SAMSUNG'S MOTION TO EXPEDITE BRIEFING ON SAMSUNG'S
RENEWED MOTION TO STAY PENDING EX PARTE REEXAMINATION**

Plaintiff Headwater Research LLC (“Headwater”) respectfully opposes Samsung’s Motion to Expedite Briefing on Samsung’s Renewed Motion to Stay Pending Reexamination (“Motion”). Headwater already offered to forego replies and sur-replies to give the Court ample time to address the merits of the parties’ briefing in advance of a December trial. Samsung refused this compromise, moving instead to shorten Headwater’s opposition deadline by one week, which only serves to prejudice Headwater’s ability to address Samsung’s arguments.

Samsung’s Renewed Motion to Stay Pending *Ex Parte* Reexamination (“Renewed Motion”) is not simply a “Renewed Motion to Stay.” While this Court previously denied a motion to stay filed by Samsung, that motion was based on *inter partes* review of Headwater’s patents. See D.I. 67 and 272. Notably, the Court denied Samsung’s previous motion, in part, because the PTAB *denied institution on the merits* as to Headwater’s ’976 Patent. Samsung’s Renewed Motion here is based on Samsung’s newly and strategically filed *ex parte* reexamination (“EPR”) against the same ’976 Patent—the sole remaining Asserted Patent in this case.

This is not merely a “renewed motion,” but is instead a motion based on a completely different post-grant proceeding with significantly different facts than at issue in Samsung’s prior motion to stay. Notably, six of the seven prior art references raised in Samsung’s request for *ex parte* reexamination were previously raised in Samsung’s failed IPR petition (and some of those were also considered during original prosecution), making it all the more likely that Samsung’s reexamination similarly fails. Nor should the Court read anything into the reexamination request being granted, as the grant rate for such requests in recent years is approximately 98%. *See, e.g.*, <https://www.uspto.gov/sites/default/files/documents/reexamination-op-stats.pdf>.

Samsung has already gained a tactical advantage through its delays in this case, including by filing this EPR. Indeed, Headwater originally asserted nine patents in the case. During the course of this case, Headwater streamlined out six of the nine Asserted Patents. *See* D.I. 385 and 418. Samsung then filed EPRs against the three remaining patents including the ’976 Patent—all in August 2024 when this case was originally scheduled for trial.

Samsung’s conduct has already prejudiced Headwater’s ability to prepare its case for trial, and now Samsung seeks to prejudice Headwater’s ability to respond to Samsung’s “Renewed” Motion to Stay as well. Headwater respectfully requests that the Court deny Samsung’s Motion to Expedite Headwater’s opposition deadline to seven days only. Nonetheless, as it told Samsung before, Headwater agrees to forego reply and sur-reply briefing in the interest of providing the Court with ample time to rule on Samsung’s Motion in advance of an expected December trial date.

Dated: November 4, 2024

Respectfully submitted,

/s/ Marc Fenster

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**ATTORNEYS FOR PLAINTIFF,
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CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2024, I electronically filed the foregoing document with the Clerk of the Court for the Eastern District of Texas using the ECF System and served defendants via CM/ECF.

/s/ Marc Fenster

Marc Fenster